

**WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
LUMBER LIQUIDATORS, INC.  
EPA ID No. VAR000501163**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Lumber Liquidators, Inc., for the purpose of resolving certain violations of environmental law and/or regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.

5. “Order” means this document, also known as a Consent Order.
6. “Lumber Liquidators” means Lumber Liquidators, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the Lumber Liquidators, Inc., facility located at 1104 W. Roslyn Road, in Colonial Heights, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Lumber Liquidators owns and operates a hardwood floor manufacturing facility in Colonial Heights, Virginia. The facility is a large quantity generator of hazardous waste.
2. On February 24, 2003, DEQ conducted an inspection of Lumber Liquidators. The following violations were noted during the inspection:
  - Failure to determine if a generated waste is a hazardous waste.
  - Excess drums of hazardous waste in the satellite area and failure to properly label the drums as hazardous waste.
  - Storage of hazardous waste greater than 90 days as a large quantity generator.
  - Failure to maintain adequate aisle space.
  - Failure to demonstrate that arrangements had been made with the local authorities as required by the Contingency Plan.
  - Failure to familiarize local hospitals of the hazardous waste handled at the Facility.
  - Failure to maintain signed manifests of the Treatment/Storage/Disposal/Facility (TSD/F) and to follow up on exceptions.
  - Contingency Plan and Emergency Procedures deficiencies.
  - Failure to train key personnel in hazardous waste management.
  - Failure to conduct weekly container inspections of the less than 90 day accumulation area.
3. On April 10, 2003, a Notice of Violation (NOV) No. 2003-04-PRO-602 was issued for the above violations.
4. On May 8, 2003, a meeting was held to discuss the citations of the above Notice of Violation.

## **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Lumber Liquidators, and Lumber Liquidators agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Lumber Liquidators, and Lumber Liquidators voluntarily agrees to pay a civil charge of \$8,400 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Lumber Liquidators shall include its Federal Identification Number.

## **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Lumber Liquidators for good cause shown by Lumber Liquidators, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Lumber Liquidators by DEQ on April 10, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Lumber Liquidators admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Lumber Liquidators consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Lumber Liquidators declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review

of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Lumber Liquidators to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Lumber Liquidators shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Lumber Liquidators shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lumber Liquidators shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lumber Liquidators. Notwithstanding the foregoing, Lumber Liquidators agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Lumber Liquidators. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lumber Liquidators from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Lumber Liquidators voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Lumber Liquidators voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Thomas D. Sullivan  
Owner

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, who is  
(Name)

\_\_\_\_\_ of Lumber Liquidators, on behalf of the Corporation.  
(Title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## **APPENDIX A**

### **SCHEDULE OF COMPLIANCE**

Lumber Liquidators shall:

1. As required by 40 CFR 264.174, Lumber Liquidators shall implement within ten (10) days of the effective date of this Order, a weekly inspection program of the hazardous waste accumulation area and to maintain a log of the results of these inspections for inspection by the Department.
2. Within ten (10) days of the effective date of this Order, Lumber Liquidators shall take the necessary measures to bring the satellite accumulation area into compliance with 40 CFR 262.34 (c) (1) (ii) and 40 CFR 264.73 (a).
3. Within thirty (30) days of the effective date of this Order, Lumber Liquidators shall provide documentation of proper characterization of all waste streams as required by 40 CFR 262.11.
4. Within thirty (30) days of the effective date of this Order, Lumber Liquidators shall request missing manifests signed by the TSDF and file all exception reports as appropriate.
5. Within sixty (60) days of the effective date of this Order, Lumber Liquidators shall complete hazardous waste management training as required by 40 CFR 264.16 (as incorporated by 9 VAC 20-60-264) for appropriate staff.
6. Within sixty (60) days of the effective date of this Order, Lumber Liquidators shall provide for review to DEQ, a contingency plan and emergency procedures for the Facility as required by 40 CFR 264.50-56 (as incorporated by 9 VAC 20-60-264).
7. Within ninety (90) days of the effective date of this Order, Lumber Liquidators shall complete making arrangements with the local police, fire departments, local hospitals and the local emergency response teams to familiarize them with the operations at the facility as required by 40 CFR 264.37 (as incorporated by 9 VAC 20-60-264).